



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

JB/AB:CMF
F. #2009R02328

271 Cadman Plaza East
Brooklyn, New York 11201

March 18, 2010

VIA ECF AND HAND DELIVERY

The Honorable John Gleeson
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Gaetano Napoli, et al.
Criminal Docket No. 10-0150 (JG)

Dear Judge Gleeson:

The government respectfully moves to disqualify Joseph R. Corozzo, Esq. and his law firm from representing defendant Gaetano Napoli, Sr. in the above-captioned case based on a conflict of interest. Among other charges, the defendant Gaetano Napoli, Sr., is charged with engaging in the obstruction of justice relating to Witness #2, charged as Counts Eight and Nine in the indictment. Mr. Corozzo is the subject of the investigation into these exact charges in light of representations made by Napoli, Sr. to Witness #2 relating to Napoli, Sr.'s and Gaetano Napoli, Jr.'s efforts to tamper with Witness #2. Accordingly, Mr. Corozzo is burdened by a *per se* conflict of interest and should be disqualified. In addition, Mr. Corozzo is a witness to events that will be the subject of trial testimony, providing a further ground for his disqualification.

I. Factual Background

On March 4, 2010, a Grand Jury in this District returned a nine-count indictment charging defendants Gaetano Napoli, also known as "Gaetano Napoli, Sr." and "Thomas Napoli," Thomas Napoli, also known as "Thomas Napoli, Jr.," and Gaetano Napoli Jr., also known as "Guy." Listed in the chart below is a summary of the criminal counts included in this indictment:

Counts	Description	Defendants
1	False Statements in Bankruptcy - Bankruptcy Petition	Gaetano Napoli, Sr.
2	False Statements in Bankruptcy - Section 341(a) Meeting	Gaetano Napoli, Sr.
3	Concealment of Assets in Bankruptcy	Gaetano Napoli, Sr., Thomas Napoli, Gaetano Napoli, Jr.
4	Conspiracy to Conceal Assets in Bankruptcy	Gaetano Napoli, Sr., Thomas Napoli, Gaetano Napoli, Jr.
5	Extortionate Collection of Credit - John Doe	Gaetano Napoli, Sr.
6	Obstruction of Justice - Witness #1	Gaetano Napoli, Sr.
7	Obstruction of Justice - Grand Jury Proceeding	Gaetano Napoli, Sr.
8	Obstruction of Justice - Witness #2	Gaetano Napoli, Sr., Gaetano Napoli, Jr.
9	Conspiracy to Obstruct Justice - Witness #2	Gaetano Napoli, Sr., Gaetano Napoli, Jr.

The defendants were arrested on March 10, 2010; Thomas Napoli was arrested in the Eastern District of New York and Gaetano Napoli, Sr. and Gaetano Napoli, Jr. were arrested in the Eastern District of North Carolina and have consented to being removed in custody to this District.¹ Relevant to this motion, Gaetano Napoli, Sr. is charged with obstructing Witness #2 in Counts 8 and 9 of the Indictment.

By way of background, as charged in Count One, Napoli knowingly made false statements in Napoli & Sons Meat, Inc.'s ("Napoli & Sons") 2009 bankruptcy petition, which he signed under penalty of perjury, by denying that his business, Napoli & Sons, had any assets whatsoever. Furthermore, as charged in Count Two, he took an oath to tell the truth during a meeting with the

¹ For additional background, the government respectfully refers to its detention memorandum filed on March 10, 2010 (attached as Exhibit A).